



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 16, 1998

Ms. Lynn Rossi Scott
Bracewell & Patterson
500 N. Akard Street, Suite 4000
Dallas, Texas 75201-3387

OR98-1486

Dear Ms. Scott:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116033.

The Hurst-Euless-Bedford Independent School District and the Carroll Independent School District (the "districts") which you represent, received requests for a list of all school bus drivers in each district, including their full names, dates of birth, social security numbers, and driver's license numbers. You indicate that you have released most of the information requested. However, you claim that the remaining requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the representative sample documents you have submitted.¹

You raise sections 552.101 and 552.130 in conjunction with new provisions of the Transportation Code.² Section 552.130 of the Open Records Act governs the release and use of information obtained from motor vehicle records. Section 552.130 provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state;

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

²Section 552.101 excepts from required public disclosure information that is considered confidential by law, including statutory law.

(2) a motor vehicle title or registration issued by an agency of this state; or

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

The Seventy-fifth Legislature added chapter 730 to the Transportation Code.³ The stated purpose of chapter 730 of the Transportation Code is "to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law." Transp. Code § 730.002. Section 730.004 prohibits the disclosure of personal information about any person obtained by an agency in connection with a motor vehicle record.

In this instance, we believe that the district is an "agency," as defined by section 730.003(1) of the Transportation Code, that compiles or maintains motor vehicle records. *See* Transp. Code § 730.003(4) (defining "motor vehicle record"). In its definition of "motor vehicle record," section 730.003(4) of the Transportation Code, however, expressly excludes records that pertain to a motor carrier. The term "motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state. Transp. Code § 643.001. We believe that under these circumstances, persons who drive school buses for the district are "motor carriers," and thus are outside the ambit of section 552.130. *See* Gov't Code § 552.130(b). Therefore, we conclude that the district may not withhold the records at issue under sections 552.101 or 552.130 of the Government Code in conjunction with section 730.004 of the Transportation Code.

We note, however, that some of the information which you submitted for our review may be protected from disclosure under section 552.117 of the Government Code. Section 552.117(1) excepts from public disclosure information relating to the home address, home telephone number, and social security number of a current or former government employee or official, as well as information revealing whether that individual has family members. Section 552.117(1) requires you to withhold this information for an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information if the employee had not made a request for confidentiality under

³Act of May 29, 1997, H.B. 1069, 75th Leg., R.S.

section 552.024 at the time the request for this information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5.⁴

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/glg

Ref.: ID# 116033

Enclosures: Submitted documents

cc: Ms. Becky Conley
8247 Santa Clara
Dallas, Texas 75218
(w/o enclosures)

⁴In addition, a social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii). In relevant part, the 1990 amendments to the federal Social Security Act make confidential social security account numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 (1994). We caution, however, that an employer may be required to obtain an employee's social security number under laws that predate October 1, 1990; a social security number obtained under a law that predates October 1, 1990, is not made confidential by the 1990 amendments to the Social Security Act. Based on the information that you have provided, we are unable to determine whether the social security numbers contained in the submitted documents are confidential under federal law. On the other hand, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing *any* social security number, you should ensure that it was not obtained pursuant to a law enacted on or after October 1, 1990. We note, however, that hiring an individual after October 1, 1990, is not the same as obtaining an individual's social security number pursuant to a law enacted on or after October 1, 1990.